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19 JUL 2007

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In re Application of BUI et al :  
U.S. Application No.: 10/560,558 :  
PCT Application No.: PCT/US2004/018380 :  
Int. Filing Date: 10 June 2004 :  
Priority Date Claimed: 13 June 2003 : DECISION  
Attorney Docket No.: 30915-701.831 :  
For: NUTRACEUTICAL FOR THE :  
PREVENTION AND TREATMENT OF :  
CANCERS AND DISEASES AFFECTING :  
THE LIVER :  
:

This is in response to the papers filed 27 December 2006, which is being treated as a request for status under 37 CFR 1.42.

**BACKGROUND**

On 10 June 2004, applicant filed international application PCT/US2004/018380, which claimed priority of an earlier United States application filed 13 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 December 2005.

On 12 December 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 November 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 27 December 2006, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

### DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 27 December 2006 is not executed by the sole heir or legal representative on behalf of the deceased inventor.

### CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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